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8	BEFORE THE		
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against: Case No. 2011- 970		
12	EDEN LOPEZ HERNANDEZ		
13	9234 Dairy Street Elk Grove, CA 95624 ACCUSATION		
14	Registered Nurse License No. 625867		
15	Respondent.		
16			
17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her		
20	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
21	Consumer Affairs.		
22	2. On or about December 12, 2003, the Board of Registered Nursing issued Registered		
23	Nurse License Number 625867 to Eden Lopez Hernandez ("Respondent"). The Registered Nurse		
24	License was in full force and effect at all times relevant to the charges brought herein and will		
25	expire on December 31, 2012, unless renewed.		
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	1		

Accusation

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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY AND REGULATORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."
 - 7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

- 9. At all relevant times, Respondent was employed as a registered nurse at Vasona Creek HealthCare Center, in Los Gatos, California.
- 10. Patient A, a 72-year old woman, was admitted to Vasona Creek on or about March 9, 2008, for rehabilitation following a right hip fracture. On April 29, 2008, patient A fell while undergoing physical therapy.
- 11. Respondent was called to assess patient A after her fall. Said assessment should have included an evaluation of patient A for any injury as a result of the fall.
- 12. Respondent did not document her post-fall assessment. The assessment done, if any, was incomplete and resulted in a delay in the diagnosis and treatment of patient A, who has sustained a new right hip fracture as a result of her fall on April 29, 2008.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Document Post Fall Assessment)

13. Respondent is subject to disciplinary action for gross negligence pursuant to section 2761, subdivision (a)(1), in that she failed to document her post fall assessment of patient A on April 29, 2008, as set forth above in paragraphs 9 through 12.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Perform Complete Post-Fall Assessment)

14. Respondent is subject to disciplinary action for gross negligence pursuant to section 2761, subdivision (a)(1), in that she failed to perform a thorough and complete post-fall assessment after patient A fell during physical therapy on April 29, 2008, as set forth above in paragraphs 9 through 12.

<u>PRAYER</u>

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 625867, issued to Eden Lopez Hernandez.
- 2. Ordering Eden Lopez Hernandez to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.
 - 3. Taking such other and further action as deemed necessary and proper.

10 11	DATED: June 8, 2011	LOVISE R. BAILEY, M.ED., RN
12		Executive Officer Board of Registered Nursing Department of Consumer Affairs
13		State of California
14		Complainant

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